



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1308 (1940)

December 12, 1985

SUBJECT: Promises made by FmHA Employees to Refinance
Credit Advances Made by Other Credit Sources While
Applicants/Borrowers are Waiting for FmHA Loan Funds

TO: All State Directors, District Directors and
County Supervisors, FmHA

Purpose/Intended Outcome: The purpose of this AN is to remind FmHA employees of the prohibition of promising or otherwise implying repayment of credit advances from other credit sources. The outcome of this AN is to eliminate such promises.

Implementation Responsibilities: It has come to our attention through Management Assessment Team Reviews and contacts with our Office of General Counsel (OGC) that employees have written letters or made phone calls to other creditors that promise payment of credit advanced to a borrower or applicant.

These promises are found to occur most frequently in the processing of Farmer Programs loans. Promises made by FmHA employees occur when other creditors have requested FmHA to promise the repayment of funds advanced on an interim basis so that the applicants/borrowers can continue with their farming operations while waiting for FmHA loan funds.

The OGC has advised that letters that promise the repayment of such credit advances are being used as the basis for lawsuits filed by the borrowers' or applicants' interim creditors. Should the Government be sued because of such payment promises, OGC might have to argue that the employee was acting outside the scope of his or her authority and the Government could not be held liable for the employee's unauthorized actions. SUCH FmHA EMPLOYEES COULD BE OPEN TO BEING PERSONALLY SUED FOR REPAYMENT OF THE ADVANCES.

Paragraphs 1941.23(b)(1) of FmHA Instruction 1941-A; 1945.167(i) of FmHA Instruction 1945-D; 1943.27 of FmHA Instruction 1943-A; 1943.77 of FmHA Instruction 1943-B and 1943.127(a) of FmHA Instruction 1943-C, specifically prohibit FmHA employees promising to repay advances from other credit sources, either personally or on behalf of applicants, borrowers or FmHA.

EXPIRATION DATE: November 30, 1986

FILING INSTRUCTIONS: Preceding
FmHA Instruction 1940-G



Farmers Home Administration is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

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Employees that make promises of payment to an interim creditor for an advance made to a borrower or applicant are also subjecting themselves to possible disciplinary action. The basis for disciplinary action would be negligence in performing official duties by acting outside the employee's scope of authority and failing to comply with FmHA Instructions and policies which prohibit this action.

A handwritten signature in cursive script, appearing to read "Vance L. Clark", with a long horizontal flourish extending to the right.

VANCE L. CLARK
Administrator